

2024:PHHC:062327-DB
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-21730-2022 (O&M)
Date of Decision: May 06, 2024

SURENDER AND ORS. Petitioners

Versus

IIFL HOME FINANCE LTD. Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: None for the petitioners.

Mr. Vineet Sehgal, Advocate for the respondent (through VC).

LISA GILL, J.

1. Prayer in this writ petition is for directing respondents to regularize petitioners' account in terms of circular dated 01.07.2015 and circular dated 17.03.2016 issued by Reserve Bank of India in respect to 'Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises'. Prayer is also for setting aside notice dated 25.07.2022 under Section 13(4) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short – 'SARFAESI Act') and sale notice dated 20.08.2022.
2. Availing of credit facility by petitioners from respondent – Financial Institution is a matter of record as is financial indiscipline for reasons as may be. Plea raised is that re-structuring of loan account was illegally denied by respondent – financial institution and proceedings under SARFAESI Act have been initiated in derogation of applicable provisions of law.
3. Written statement on behalf of respondent has been filed raising preliminary objection qua entertainability of this writ petition itself. Reliance has

been placed on judgment of Hon'ble the Supreme Court in **Phoenix ARC Private Limited versus Vishwa Bharti Vidya Mandir and others, 2022 (1) RCR (Civil) 888**. Learned counsel for respondent points out that petitioner did not deposit the amount in terms of interim order dated 21.09.2022 passed in this writ petition, which was a conditional order, therefore, secured asset/property in question was successfully auctioned (sale certificate being issued in favour of successful purchaser on 05.12.2022 itself). It had been directed vide order dated 21.09.2022 that no coercive action would be taken against petitioners subject to petitioners depositing a sum of Rs.2,56,500/- within two weeks. Said amount had not been deposited.

4. None had appeared on behalf of petitioners on the last occasion when this writ petition was taken up for hearing. Today again, there is no representation on behalf of petitioners. It appears that petitioners are not interested in pursuing the matter any longer.

5. Present petition is, accordingly, dismissed in default and for non prosecution.

6. Needless to say, petitioners are at liberty to avail remedies available to them in accordance with law in respect to any grievance(s) which they may have to proceedings under SARFAESI Act initiated against them.

(LISA GILL)
JUDGE

(AMARJOT BHATTI)
JUDGE

May 06, 2024

rts

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No